IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 49 OF 2005

Kishor Chandu Wageshwar ..Petitioner

Versus

Executive Engineer, Public
Work Division, Alibaugh and ors. ... Respondents.

Mr. S.M. Kamble for the petitioner.
Mr. P.M. Patil, Assistant Government Pleader, for respondent Nos. 1 to 3 and 7.

CORAM: **DALVEER BHANDARI, C.J.** &
S.J. VAZIFDAR, J.

DATE: **JUNE 22, 2005**.

P.C.

This petition has been filed in the public interest in which a prayer has been made that directions be given to Executive Engineer, Public Work Division, Alibaug, Forest Officer, Forest Division, Raigad , Commissioner, Konkan Division, Konkan Bhavan and the State of Maharashtra to conduct an inspection in respect of the work carried on by Respondent Nos. 4 to 6 in relation to the repairs of road No. P.Z.M. (9) carried on at village Neral-Matheran and Dastori, Tal. Karjat, Dist. Raigad.

2. Pursuant to the notice issued by this Court, Sub Divisional Engineer, Public Works Sub Division No.1, Karjat, has filed his affidavit. It is mentioned in the affidavit that as per the Road Development Plan 1981-2001, Neral Matheran road whose nomenclature is Major District Road No.9, the land was acquired for this road. The road is generally 7.00 meters in width and varies at various locations, especially at curves. The total road length is 8.20 Kms. Out of which 6.90 km. length passes through forest land. This road is with P.W.D. and it is the property of P.W.D. of the Government of Maharashtra.

3. It is categorically mentioned that the respondents have not carried out any violation of any Rules laid down by the Forest/Environmental Department. The road stated in para 3 starts from Neral and leads to Matheran Hill Station (Dasturi). The road passes through hilly area in which one side is rocky hill and the other side is a deep valley. There are some acute curves and the road is cut on valley side reducing the width of roadway. Two vehicles can hardly pass at these points. This leads to dangerous situation to traffic and leads to accident with a risk of life on many occasions. To maintain road's width and protect the road on valley side, it is absolutely

necessary to ensure safety of traffic and protect the life of passengers. These safety restoration works are taken up by the P.W.D. as an essential duty. It is also mentioned that the project of development of Neral Matheran road was discussed and finalised in Eco Sensitive Zone Monitoring Committee meeting held on 30th June, 2004. It is also mentioned that minutes of meeting were forwarded to Executive Engineer, P.W. Division, Alibag for information and necessary urgent action. It is also mentioned that the road from Neral to Matheran needed widening of the road, construction of retaining walls and culverts.

4. It is further mentioned that the Chairman with the concurrence of all members of Monitoring committee stated that this road needs upgradation and repair whatever needs to be done or is required for the same should be done expeditiously. The Ministry of Environment and Forest has published the notification on 16th January, 2004 for Eco Sensitive Zone as applied to Matheran and surrounding areas. Accordingly, road upgradation and improvement work is to be executed under the guiudelines of the Monitoring Committee for Matheran Eco Sensitive Zone. It is also mentioned in the affidavit that

due care is taken to protect the environment by resorting the procedure of chiselling for rock excavation instead of open blasting. It is also mentioned that as per clause 3C of the notification published by the Ministry of Environment and forest dated 16th January, 2004, under quarrying and mining, Monitoring Committee for the Matheran Eco Sensitive Zone is empowered for granting such type of activity. It is mentioned that the project is exclusively meant for improvements to existing road surface. Tunnel construction is neither proposed nor is in progress on this road. Respondent No.1 did not cut any live tree property. Being Government organization, respondent has all social sense regarding environmental heritage. Valuable tree growths coming across the construction alignment are saved by the respondent. In the reply it is mentioned that upgrading, repairing and widening of the road, the road safety will be highly increased and so also public transport facility may start with the completion of project which is very much beneficial to common man and residents of Matheran and Neral. It is also mentioned that considering the need and importance of common man and growing tourism of Matheran hill station, the work is of paramount importance as it will boost the economy of State and Tourism Department.

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5. Despite opportunities, the petitioner has not filed rejoinder to this affidavit in reply. The petitioner has also failed to point out any provision of law which has been violated by the respondents. In view of the above, this Court is left with no option but to dismiss the petition. We order accordingly.

CHIEF JUSTICE

S.J. VAZIFDAR, J.